

Remarks/Arguments:

Independent claim 6 and dependent claims 7-11 are allowed and note amended herein. The Applicants appreciate the indication of allowability. Each of the remaining independent claims 1, 12, 16 and 19 are amended. As such, the Applicants believe that the arguments of the Official Action are rendered moot. Nonetheless, the amended claims were amended for purposes of clarification and not to overcome the art. As will be explained in greater detail below, neither the primary or secondary reference teach all of the required elements. Thus, the Applicant make the following remarks and arguments to clarify differences between the originally filed claims, the claims as presently constituted, and the cited art.

Claims 1-5 and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US Patent number 5,893,035) in view of Lundby et al. (US Patent number 6,351,65). Specifically, the Official Action states,

"Regarding claims 1 and 16, Chen discloses that a base station transceiver system (BTS) (16 in Fig. 1) in communication with a mobile station (MS) (12 in Fig. 1) and with a base station controller (BSC) (14 in Fig. 1) (column 5, lines 36-column 6, lines 10 and Fig. 1). Chen teaches that circuitry that defines logic to prompt the BTS (16 in Fig. 1) to transmit a signal to the BSC (14 in Fig. 1) representing a transmission's forward gain level (forward power level (Fig. 2 and column 2, lines 61-column 3, lines 30 where teaches the mobile sends frame quality messages (forward power levels) to the base station and the base station sends the messages to the base station controller). Chen teaches that circuitry that defines logic that prompts BTS to generate a sequence number (Fig. 6, 7) that relate to the transmission forward gain level (measured forward power levels see column 6, lines 18-37) and to transmit the sequence number (Fig. 6, 7) with the status signal (quality measurements see column 6, lines 18-37) (Fig. 2, 6, 7 and column 13, lines 13-67 where teaches BTS generates and transmits a code numbers such as 1000000 that means no change in the power condition and signal quality condition to the base controller). Chen teaches that circuitry that defines logic for comparing power gain commands received from the BSC in relation to transmitted power gain levels and for adjusting the BTS's forward

gain level for a subsequent transmission (column 10, lines 15-63, Fig. 4, 5, and column 3, lines 31-47 where teaches the base station controller received the messages, and analyzes and update the messages and then adjusts subsequent transmission power).

Chen does not specifically disclose the limitation "BTS represents a previous transmission forward gain level to BSC". However, Lundby discloses the limitation "BTS represents a previous transmission forward gain level to BSC" (Fig. 2 and column 3, lines 19-column 4, lines 30 where teaches the BTS transfers power control history (previous transmission forward gain level) to the base station controller). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Chen system as taught by Lundby. The motivation does so would be to achieve more efficient power control for forward link in wireless communication system."

Responsive thereto, the Applicants note that Chen does not actually teach sequence number as disclosed and required by the claims of the present application. That which the Official Action states, as quoted above, to be sequence numbers in Figures 6 and 7 are EIB (error indicator bits, see col. 7, line 9). The EIB messages are used to relay a signal quality metric (see col. 7, lines 6-15 where it states that a "1" reflects erasure and a "0" reflects a properly received frame). The sequence number of the present application is used, however, to identify a formerly transmitted signal so that power commands from a BSC may be understood in light of a prior transmitted signal. The difference in a BSC specified power level and the previously transmitted level then defines at least a portion of an amount of adjustment from present value. One benefit of this is that the BSC specified power levels do not act as a hard reset thereby overwriting commands from the mobile station.

Moreover, the two parts of information produced by the base station to the BSC in Chen include a transmission power level and a timer value. The timer value indicates a period of time during which the base station will not respond actively to requests to increase the transmission power from the mobile station (see col. 3, lines 6-18).

With respect to the Lundby reference, the Applicants note that Lundby primarily teaches that the BSC attempts to solve BTS power mismatch by evaluating BTS transmission levels for a plurality of BTSs, generates a history of power transmission power levels, and then commands each BTS to a specified power setting. The primary teachings of Lundby, therefore, do not avoid that which the present application is concerned with, namely, not overwriting power control commands from the mobile station. In traditional scope expansion type of statement to support expanding the scope of the claimed invention, Lundby states that the history may be transmitted to the BTS to enable it to make up its own power adjustment decisions (see col. 2, lines 23-31). The Applicants do not believe, though, that this is adequate to invalidate the claimed invention. Specifically, Lundby does not suggest using sequence numbers to correlate specific power commands to a prior transmission. Lundby further does not teach a BTS comparing a difference in commanded power level and prior power level identified by the sequence number as a part of determining how to adjust a current power setting.

Each of the independent claims, with the exception of allowed independent claim 6, is amended to more clearly define the invention even though, as argued above, Chen nor Lundby teach using sequence numbers as taught and claimed by the applicants herein nor adjusting power levels as taught and claimed herein (as previously claimed as well as claimed after the present amendments). As such, to avoid making repetitive arguments, the Applicants urge that the claims, as amended, overcome and/or render the arguments of the Official Action moot.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the references must teach or suggest all the claim limitation. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the cited references, and not based on applicant's disclosure. MPEP 2143, p. 2100-121 (August 2001).

Applicant respectfully traverses this rejection in that a *prima facie* case of obviousness has not been established.

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If the Examiner has any comments or believes that a phone conference could speed the prosecution of the case, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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By: 

James A. Harrison, Reg. 40,401
Garlick Harrison & Markison, LLP
P.O. Box 670007
Dallas, Texas 75367
(214) 902-8100/office
(214) 902-8101/facsimile